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Procurement
**U.S. ARMY MEDICAL COMMAND REQUEST FOR APPROVAL
OF UNAUTHORIZED COMMITMENT PROCESSING RATIFICATIONS**

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Chapter 1

Introduction

1-1. HISTORY. This is the first printing of this publication.

1-2. PURPOSE. This pamphlet establishes procedures for processing U.S. Army Medical Command (MEDCOM) Form 747-R (MEDCOM Request for Approval of Unauthorized Commitment) ratification. It provides guidance and standard procedures to MEDCOM operational and tactical levels, Regional Medical Commands, U.S. Army Veterinary Command, U.S. Army Medical Centers/Medical Department Activities, and Dental Activity levels respectively. U.S. Army Medical Research Acquisition Activity personnel should refer to the procedures published by the U.S. Army Medical Research and Materiel Command Principal Assistant Responsible for Contracting (PARC). MEDCOM Form 747-R will be used by MEDCOM personnel to process unauthorized commitment actions in place of Fort Sam Houston Form 105*E (Request for Approval of Unauthorized Commitment). Due to the separation of the U.S. Army Contracting Agency, Directorate of Contracting and MEDCOM Contracting, a new ratification form was created to add a signature block for the military treatment facility (MTF) Commander and Legal Advisor.

1-3. REFERENCES.

- a. Federal Acquisition Regulation (FAR) 1.602-3.
- b. Army Federal Acquisition Regulation Supplement (AFARS) 5101.602-3 and AFARS 5101.602-3-90(d).

1-4. EXPLANATION OF ABBREVIATIONS AND TERMS. Abbreviations and special terms used in this publication are explained in the glossary.

1-5. SCOPE. This pamphlet expands on the regulations and directions set forth in the FAR and AFARS. It is intended to be used by MEDCOM subordinate activities involved in the ratification of unauthorized commitment process.

1-6. GENERAL GUIDANCE. Only a duly appointed contracting official within his/her authority may legally procure and obligate the government to pay for supplies and services. An unauthorized commitment occurs when a government official makes an agreement that is not binding on the government solely because the government official lacked authority to make the agreement. Procurement of goods and services placed on the government purchase card, without following proper procedures, may result in an unauthorized commitment. The process commonly starts when an unauthorized government official engages the services of a contractor or acquires a supply. The process heightens when the contractor/vendor submits an invoice for payment and the government is unable to disburse payment. The individual making such a commitment

remains liable to the contractor/vendor in accordance with the terms of his or her agreement. Individuals who elect to pay a contractor/vendor with personal funds may not request a ratification be processed, as described below.

The U.S. Government is not liable for an unauthorized commitment unless and until an authorized government procurement official determines, at the completion of a process called ratification, that the Government should accept the unauthorized commitment as a U.S. Government obligation. If and when the appropriate contracting official ratifies the unauthorized commitment, he or she obligates appropriated funds and the contractor/vendor is paid the amount obligated.

Chapter 2

Guidance and Procedures

2-1. GENERAL. This chapter prescribes guidance and procedures for commanders to process an Unauthorized Commitment (Ratification) request.

2-2. GUIDANCE.

a. Commanders and Staff Chiefs will take positive action to preclude the need for ratification actions. Although procedures are available to determine whether to ratify an unauthorized commitment, these procedures will not be used in a manner that encourages such commitments being made by government personnel.

b. The Regional Contracting Office (RCO)/Center for Health Care Contracting (CHCC) and MEDCOM Health Care Acquisition Activity (HCAA) will take all necessary steps to ensure that unauthorized commitments are resolved and completed within 60 days. To ensure other agencies involved in the ratification process have sufficient administrative lead time, the committing activity will complete the request for ratification, MEDCOM Form 747-R, within 10 days after becoming aware of the unauthorized commitment. Success in the endeavor requires continuous communication between the committing activity and the local RCO/CHCC. Commanders, directors, and staff chiefs are encouraged to utilize the available acquisition resources. The local RCO/CHCC is the Acquisition Professional.

c. MEDCOM Form 747-R will be completed in accordance with the instructions at appendix A and forwarded to the local RCO/CHCC for review. Legal advice is available from the servicing Staff Judge Advocate.

2-3. PROCEDURES.

a. Individuals making unauthorized commitments will immediately notify their commanders, directors, or staff chiefs as appropriate. Commanders, directors, and staff chiefs shall complete MEDCOM Form 747-R within 10 days after learning of the existence of the unauthorized commitment.

b. MEDCOM Form 747-R will be forwarded to the local MTF Commander for review and signature prior to forwarding the ratification packet to the supporting RCO/CHCC for review and action.

c. When deficiencies or irregularities are identified during the review of a ratification packet, the committing activity will be notified. The committing activity shall take appropriate steps to rectify deficiencies or comments noted and promptly resubmit the corrected packet to the local RCO/CHCC for another review. A suspense date of 5 days will be placed for resubmission of the MEDCOM Form 747-R.

d. If the ratification packet is not received from the committing activity by the suspense date, a new suspense date from the local RCO/CHCC will be identified to ensure processing of the ratification action is completed within the HCAA goal of 60 days.

e. After the review of the ratification packet is completed or correction verified, the committing activity will release the ratification packet through the supporting Resource Management Office to the local RCO's/CHCC's contracting officer.

2-4. DISAGREEMENTS WITH CONTRACTING OFFICER'S RECOMMENDATION.

a. In the event the commander responsible for completing Block D of the MEDCOM Form 747-R disagrees with a contracting officer's recommendation not to ratify the unauthorized commitment, the commander may submit a separate memorandum detailing the basis for the disagreement through the contracting officer and office chief. The contracting officer will forward the memorandum to the decision authority for consideration with the contracting officer's recommendation. A copy of this documentation will be forwarded to the MTF Commander.

b. The government official responsible for approving or disapproving the ratification will make the approval/disapproval decision considering the facts and circumstances in each case.

2-5. RESPONSIBILITIES. Leaders and managers at every level have the responsibility and obligation to preclude, to the maximum extent possible, the occurrence of an unauthorized commitment. To succeed, commanders, directors, and staff chiefs are encouraged to utilize the available acquisition resources within the command during the development and execution of contract requirements. The PARC is the MEDCOM's acquisition professional and your local RCO/CHCC is available to assist in acquisition matters. Through the process of continuous communication and acquisition support from your local RCO/CHCC and the PARC's office, reoccurrences of unauthorized commitments can be eliminated within the MEDCOM.

Appendix A

MEDCOM Form 747-R Instructions

1. Instructions. Complete information on the header of MEDCOM Form 747-R.

a. Insert the amount of the unauthorized commitment.

b. Enter the name and address of vendor to include the type(s) of supplies or services received.

c. Enter the name and address of the unit that committed the unauthorized commitment.

2. Part I, Section A - Commitment Circumstances. The individual responsible for the unauthorized commitment will complete Part I, Section A, blocks 1 and 2 of MEDCOM Form 747-R. Upon completion, the individual will send the MEDCOM Form 747-R through the supervisor to the unit commander or the Chief of Staff for staff elements of unit for signature. If the individual who was responsible for the unauthorized commitment does not complete the specified parts of the MEDCOM Form 747-R, the ratification packet must include an explanation as to why not and the MEDCOM Form 747-R will be documented with the attempts made to contact the individual responsible for the unauthorized commitment. The MEDCOM Form 747-R will be completed by someone in authority with the knowledge of the unauthorized commitment.

a. Part I, Section A, Block 1 - Commitment Circumstances.

(1) Provide a chronological explanation of the sequence of events which led to the unauthorized commitment. The explanation needs to clearly articulate the rationale of the circumstances that led to the unauthorized commitment. A thorough explanation is required to allow offices involved in the ratification process to determine the government's liability. A single line statement is insufficient to substantiate the legal and acquisition requirements, nor can it adequately explain the circumstances of the unauthorized commitment.

(2) Address disputed aspects of the transaction.

(3) Attach continuation sheets, if required.

(4) Provide as much information as possible. Explain why normal procedures were not properly executed. The activities involved in the review of the ratification packet must have sufficient information upon which to base their recommendations. When addressing this question, consider the normal procedures in the establishment of

the requirement and approval process and then explain why these procedures were not followed.

(5) Describe the bona fide government requirement necessitating the commitment and benefits received as a result.

(a) Explain what benefits the government received from the unauthorized commitment. Identify the supplies or services and what benefits were obtained. It's important to be specific in the benefits which resulted. Avoid statements such as "official business" or "mission essential" since these statements are too vague and do not substantiate why the unauthorized commitment occurred.

(b) Identify the specific needs that gave rise to the needs of the specific support provided by the other party.

3. Part I, Section A, Block 2 - Commitment Circumstances Continued. List and attach all relevant documents.

a. List and identify, by title, all documentation supporting the unauthorized commitment. The supporting documentation must be listed in chronological order as explained in the sequence of events which led to the unauthorized commitment.

b. The following supporting documentation, as a minimum, must be included in the ratification packet.

(1) A funded DA Form 3953 (Purchase Request and Commitment). Funds identified on DA Form 3953 must be certified for the fiscal year in which the unauthorized commitment occurred. If the unauthorized commitment occurred in a prior fiscal year and funds are not available for obligation, the Funds Certifying Officer must make an appropriate statement and certification. The DA Form 3953 must be processed through normal channels for the supplies or services being ratified.

(2) Invoice.

(a) The invoice must be completed and must contain the following signed statement by the person submitting the invoice.

"I certify that the above bill is correct and just, that payment thereto has not been received and that the prices are exclusive of taxes, duties or similar charges which are not applicable to the United States Government."

(b) The invoice must also contain the following appropriate statement signed by a government representative. Normally, the government representative should be the person that received the supplies or services. Statement for supplies:

"I certify that the supplies (unauthorized commitment) described herein have been inspected and accepted by a Government official."

OR

Statement for services: I certify that the services (unauthorized commitment) described herein have been satisfactorily completed and accepted by an authorized Government official."

(c) Last block of Part I, Section A, Typed name and title of individual making unauthorized commitment: Self-explanatory.

4. Part I, Section B - Supervisor Review. This section is to be completed by the immediate supervisor of the individual that made the unauthorized commitment. For staff elements of MEDCOM, the signature of the unit commander will be that of the Chief of Staff. For subordinate units of MEDCOM, the signature will be that of the Commander of the organization.

a. Part I, Section B, Block 1. The immediate supervisor of the person who made the unauthorized commitment must summarize the facts concerning the event.

b. Describe attempts to resolve unauthorized commitment prior to requesting ratification. Provide an explanation as to why the invoice cannot be canceled or supplies returned.

5. Part I, Section C - Recommendation Regarding Contractual Ratification. This section is to be completed by a Unit Commander, Director, or Activity Chief. At minimum, this is the first O-6 or equivalent in the individual's chain of command.

a. Part I, Section C, Block 1. Describe remedial action taken to prevent recurrence or state reason why remedial action is not necessary. Address actions taken within the organization to preclude future recurrence of an unauthorized commitment. Actions taken must be specific and include verifiable corrective actions.

b. Part I, Section C, Block 2. Describe disciplinary action taken. Describe any disciplinary action taken. If no disciplinary action was taken, an explanation as to why no disciplinary action was considered necessary to ensure the ratification process is not used in such a manner in the future as to encourage such commitments by government personnel, thereby violating regulatory and statutory requirements. A statement such as "no disciplinary action was taken" is inappropriate and too vague.

6. Part I, Section C, Block 3. Recommend Contractual Ratification.

a. Identify the purchase request that will be used to ratify the unauthorized commitment. The purchase request must be processed through normal channels before being attached to MEDCOM Form 747-R.

b. Annotate on DA Form 3953 the statement "This PR&C is part of a request for ratification action."

c. Attach invoice with appropriate statements including DD Form 250 (Material Inspection and Receiving Report).

7. Part I, Section C, Block 4. Do Not Recommend Contractual Ratification.

a. Self-explanatory. Insert appropriate comments for not recommending a contractual ratification.

b. Last block of Part I, Section C, Typed Name, Title and Organization of Unit Commander. Self-explanatory. Signature block for the staff elements will be the Chief of Staff. For subordinate units, it will be the subordinate unit commander. At a minimum, this is the first O-6 or equivalent in the individual's chain of command.

8. Part I, Section D - Commander's Review.

a. The MTF Commander is to review the circumstances, facts, and action taken concerning the unauthorized commitment action and either concur or nonconcur with further processing of the ratification by the Chief of the MEDCOM Contracting Office. If after reviewing the circumstances, facts and action taken and not concurring with the action, MTF Commander may request further documentation, recommend payment by the individual making the unauthorized commitment, recommend further documentation of corrective actions(s) taken, or provide another form of action and explain.

b. Last block of Part I, Section D, Commander's Review. Self-explanatory. Signature block for the command elements will be the MTF Commander. For subordinate units it will be the Chief of Staff.

9. Part II, Contracting Officer's Review. The assigned contracting officer shall review the file and proceed with the review process outlined in the section. Prepare written findings and recommendation and obtain legal review.

10. Part III, Section A - Legal Review and Final Disposition. Legal counsel shall provide a legal opinion that concurs or nonconcurs with the ratification recommendation, stating the basis for the legal opinion. After the legal review is completed the file shall be returned to the local Regional Contracting Office, signed and dated by the local Legal Advisor.

11. Part III, Section B (Completed by Chief, Regional Contracting). If the action is in excess of \$10,000 send the documentation to HCAA Staff Ratification Officer for action.

Appendix B

Appendix B contains the following "-R" form (authorized for local reproduction).

MEDCOM Form 747-R
(MEDCOM Request for Approval of Unauthorized Commitment)

MEDCOM REQUEST FOR APPROVAL OF UNAUTHORIZED COMMITMENT

For use of this form see MEDCOM Pam 715-2

IN THE AMOUNT OF (\$):

TO (COMPANY NAME):

FOR (SUPPLIES/SERVICES):

COMMITTED (DATE):

COMMITTING ACTIVITY/UNIT:

PART I - DESCRIPTION OF COMMITMENT AND UNIT COMMANDER'S REVIEW***AUTHORITY: FEDERAL ACQUISITION REGULATIONS (FAR) AND ARMY FEDERAL ACQUISITION REGULATION SUPPLEMENT (AFARS)***

The individual making the unauthorized commitment shall complete Blocks 1 and 2 of Part I, Section A, provided the required documentation, sign, date, and forward to his/her immediate supervisor for completion of Block I, Part I, Section B. The immediate supervisor shall then forward the file to their Unit Commander, Director, or Activity Chief (as a minimum, this is the first O-6 or equivalent in the individual's chain of command) for completion of Blocks 1 through 4, Part 1, Section C. The complete file shall be forwarded through command channels to the Chief of the Regional Contracting Office. All information will be completed in detail.

PART I, SECTION A - COMMITMENT CIRCUMSTANCES

1. Statement by Individual Describing Circumstances. (Include what bona fide need of the Government necessitated the commitment, how the commitment was made, why normal procurement procedures were not followed, the benefit received by the Government, the value of that benefit, and any other pertinent facts.)

PART I, SECTION A - COMMITMENT CIRCUMSTANCES (CONT)

2. List and attach all relevant documents. (Include orders, invoices, and other evidence of the transaction.)

TYPED NAME AND TITLE OF INDIVIDUAL MAKING UNAUTHORIZED COMMITMENT:

SIGNATURE:

DATE:

PART I, SECTION B-SUPERVISOR REVIEW

(Completed by immediate supervisor or individual making unauthorized commitment)

1. Comments of Immediate Supervisor of Individual Making Unauthorized Commitment.

TYPED NAME, TITLE, AND ORGANIZATION OF SUPERVISOR:

SIGNATURE:

DATE:

PART I , SECTION C-RECOMMENDATION REGARDING CONTRACTUAL RATIFICATION

(Completed by Unit Commander, Director or Activity Chief - as a minimum, this is the first O-6 or equivalent in the individual's chain of command.)

1. Describe remedial action taken to prevent recurrence or state reason why remedial action is not necessary.

2. Describe disciplinary action taken. (Include a description of any administrative action to be taken under applicable personnel authority or furnish an explanation of why no disciplinary action was considered necessary.)

3. Recommend Contractual Ratification

☐

Appropriately Funded Purchase Request (DA Form 3953) and Material Inspection and Receiving Report (DD Form 250) are forwarded herewith.

4. Do Not Recommend Contractual Ratification

☐

Explain Reason:

TYPED NAME, TITLE, AND ORGANIZATION OF UNIT COMMANDER:

SIGNATURE:

DATE:

PART I , SECTION D- COMMANDER'S REVIEW

(Completed by Hospital Commander)

☐ I have reviewed the circumstances, facts, and actions taken concerning the unauthorized commitment action and I concur with further processing of the ratification by the Chief of the Regional Contracting Office.

☐ I have reviewed the circumstances, facts, and actions taken and I do not concur that this action should be further processed for ratification. Action should be returned to the activity supervisor:

☐ Further documentation of circumstances.

☐ Payment by individual making the unauthorized commitment.

☐ Further documentation of corrective action(s) taken.

☐ Other (Explain).

TYPED NAME, TITLE, AND ORGANIZATION OF HOSPITAL COMMANDER:

SIGNATURE:

DATE:

PART II - CONTRACTING OFFICER'S REVIEW

(Completed by the assigned Contracting Officer)

THE ASSIGNED CONTRACTING OFFICER SHALL REVIEW THE FILE AND PROCEED AS FOLLOWS:

1. Determine the adequacy of all facts, records, and documents furnished and obtain any additional material required.
2. Obtain an opinion from legal counsel as to whether the acquisition is ratifiable under FAR 1.603-3, AFARS 5101.602-3, or should be handled otherwise.
3. State whether the price involved is considered fair and reasonable and indicate how that determination was made.
4. Determine whether sufficient funds are available to pay for acquisition.
5. Prepare a summary statement of facts addressing the foregoing. The statement is to include a recommendation as to whether the transaction should be ratified. *(If more space is required attach plain bond paper).*

TYPED NAME AND GRADE OF CONTRACTING OFFICER:

SIGNATURE:

DATE:

PART III , SECTION A- LEGAL REVIEW AND FINAL DISPOSITION

(Completed by Legal Counsel)

DETERMINE WHETHER THE ACQUISITION IS RATIFIABLE UNDER AFARS 5101.602-3 and FAR 1.602-3, OR RECOMMEND OTHER APPROPRIATE DISPOSITION. (Return to Chief, Regional Contracting Office for denial disposition.)

TYPED NAME, GRADE OF LEGAL ADVISOR:

SIGNATURE:

DATE:

PART III , SECTION B

(Completed by Chief, Regional Contracting Office)

Based on the Foregoing Determination, Request for Approval of Unauthorized Commitment is:

1. Actions of \$10,000 or Less

☐

Approved (Issue Purchase Order).

☐

Disapproved (Provide Disposition Instructions in accordance with FAR 1.602-3(d) and AFARS 5101.602-3-90).

2. Actions in excess of \$10,000

☐

Approval is Recommended.

☐

Disapproval is Recommended (See FAR 1.602-3(d) and AFARS 5101.602-3-90).

TYPED NAME AND GRADE OF CHIEF, REGIONAL CONTRACTING OFFICER:

SIGNATURE:

DATE:

Glossary

Section I Abbreviations

AFARS	Army Federal Acquisition Regulation Supplement
CHCC	Center for Health Care Contracting
FAR	Federal Acquisition Regulation
HCAA	Health Care Acquisition Activity
MEDCOM	U.S. Army Medical Command
MTF	military treatment facility
PARC	Principal Assistant Responsible for Contracting
RCO	Regional Contracting Office

Section II Terms

This section contains no entries.

The proponent of this publication is the U.S. Army Medical Command Health Care Acquisition Activity. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Commander, U.S. Army Medical Command Health Care Acquisition Activity, ATTN: MCAA, 2107 17th Street, Suite 69, Fort Sam Houston, TX 78234-5069.

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